



October 3, 2023

Kevin McDonnell
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Sent by email

Subject: Approval to Manage Contaminated Soil under Wis. Admin. Code § NR 718.12
Hartmeyer Property, 2007 Roth Street, Madison WI
DNR BRRTS Activity # 03-13-000053 and 02-13-580328

Dear Mr. McDonnell:

On July 11, 2023, SCS Engineers submitted a Materials Management Plan (MMP) to the Wisconsin Department of Natural Resources (DNR) on behalf of Lincoln Avenue Capital for its planned redevelopment of the Hartmeyer Property, 2007 Roth Street, Madison. Supplemental information requested by DNR was provided on September 7 and September 15, 2023. DNR received the applicable fee for providing review and response, in accordance with Wis. Admin. Code § NR 749.04(1).

DNR has reviewed the MMP and its September 7, 2023 addendum (collectively referred to below as the Request) and offers an approval, subject to compliance with the conditions in this letter. Should your redevelopment plans alter in ways that could significantly change the proposed soil management activities in this Request, a new request must be submitted to DNR for review and approval.

The Hartmeyer Property is proposed to be subdivided as shown in the attached map (Preliminary Certified Survey Map page 1). At the timing of the writing of this approval, the Hartmeyer Property is owned by Kraft Heinz and is one parcel (parcel number 251/0810-313-0099-0). The Hartmeyer Property has a parking lot in the northeast corner and is otherwise undeveloped.

After purchasing and dividing the property into three lots, Lincoln Avenue Capital plans to construct two apartment buildings accompanied by new roads and utilities. Proposed Lots 1 and 2, which are roughly the eastern half of the Hartmeyer Property, are zoned residential and are the location planned for two apartment buildings. Proposed Lot 3 is zoned Conservancy and is not part of this Request.

In this letter, "Hartmeyer Property" refers to the entirety of the current parcel; "Proposed Lot 1 and 2 redevelopment" refers to the area proposed for construction of the two apartment buildings, including the associated roads, utilities, and their rights-of-way. The Request pertains only to the Proposed Lot 1 and 2 redevelopment.

The excavation needed for the Proposed Lot 1 and 2 redevelopment will result in the removal of approximately 17,000-27,000 cubic yards of contaminated soil; an unspecified amount of uncontaminated soil will also be excavated. Residual petroleum contamination from past fuel oil releases is found within the construction area; polycyclic aromatic hydrocarbons and metals are found in the former coal storage area and in historic fill across the Property.

The Request categorizes soil into three types:

- Type 1: petroleum-contaminated soils
- Type 2: contaminated fill soils
- Type 3: clean fill and native soils

While much of the contaminated soil is planned to be disposed of off-site, there may be a need to reuse some soil on-site. Type 1 petroleum-contaminated soils will be sent to a licensed solid waste landfill. Type 3 soils are uncontaminated soil and may be reused without restriction. Type 2 soils are proposed to be reused in covered areas (covered by buildings, pavement, or a soil “cap”) if the soils are suitable for use as structural fill; Type 2 soils unsuitable for structural fill will be sent to a licensed solid waste landfill.

Note that this approval does not grant any exemptions to the locational criteria in Wis. Admin. Code § NR 718.12(1)(c), so any soil reuse allowed in this approval must meet those criteria. The Request proposed the possibility of some soil reuse with a minimum of 2 feet of separation from the high groundwater level; this approval requires the minimum of 3 feet of separation from the high groundwater level listed in NR 718.12(1)(c).

Based on DNR review of the vapor screening criteria applicable to the Property, DNR is requiring sub-slab vapor sampling of the buildings once construction is complete. The DNR understands that a passive vapor mitigation system is currently proposed to be installed during construction of each apartment building. The results of the sub-slab vapor sampling will be used to determine if additional sampling and/or active vapor mitigation is required.

Wis. Admin. Code § NR 718.12 Approval

This letter grants an approval to manage contaminated soil on site according to Wis. Admin. Code § NR 718.12 and **subject to the following conditions:**

1. Any previously unreported hazardous substance discharge discovered during contaminated soil management activities must be reported to the DNR as required in Wis. Admin. Code ch. NR 706. Discovery of underground storage tanks, piping, drums, etc. must be reported to DNR within 24 hours and appropriate follow-up actions proposed.
2. Contaminated soil must be managed according to the approved Request and the requirements of Wis. Admin. Code ch. NR 718.
3. Contaminated soil management activities approved by this letter are scheduled to be completed in within no more than 2 years from the date of this letter. Notify the DNR if this schedule will change.
4. Documentation of contaminated soil management activities must be provided within 90 days of the completion of soil management activities. The documentation must comply with the requirements of Wis. Admin. Code § NR 724.05(2) and § NR 724.15(3). The requirement to submit a paper copy is waived. Documentation must include:
 - a. A cover letter that contains the information required by Wis. Admin. Code § NR 724.05(2)(e)1
 - b. Owner contact and property location information for the Property redevelopment
 - c. A synopsis of the work conducted and an explanation of how the work complied with the approved Request and the conditions in this approval
 - d. Documentation of excavation and soil placement activities, including the total volume and final location or disposition of excavated materials for the three soil categories described in the Request and including the total volume and location of imported clean fill
 - e. Maps, drawings, cross-sections, and color photos showing how contaminated soil was managed
 - f. A description of and explanation for any changes made to the planned management activities
 - g. Any field observations or results of monitoring conducted during the management activity

- h. A description of how new site conditions are protective of human health and the environment at the Property
- i. A cover maintenance plan
- j. Certification under the seal of a professional engineer registered in the State of Wisconsin per Wis. Admin. Code ch. NR 712

DNR will request that incomplete documentation be amended as allowed by Wis. Admin. Code § NR 724.07(2).

5. This approval is granted under Wis. Admin. Code § NR 718.12 and applies only to the specific activities and specific areas of the Hartmeyer Property described within the Request. This approval does not authorize any excavation or disturbance of soil on proposed Lot 3.
6. Any contaminated soil that is excavated or otherwise disturbed at the Hartmeyer Property and not covered under this or another approval must be managed in compliance with the requirements of Wis. Admin. Code chs. NR 500 through NR 599. The management of contaminated soil on a property that does not comply with these rules may be considered a hazardous substance discharge or environmental pollution and would be required to be addressed by the process outlined in Wis. Admin. Code chs. NR 700 to NR 799.
7. As required by Wis. Admin. Code § NR 716.11(3)(a) and (5)(g), submit a sub-slab vapor sampling plan to DNR within 90 days of the date of this approval. The sampling plan should follow DNR's RR-800 guidance (Addressing Vapor Intrusion at Remediation & Redevelopment Sites in Wisconsin, January 2018).
8. Lincoln Avenue Capital is responsible for obtaining any local, federal, or other applicable state permits to carry out the project and complying with all applicable local, state, and federal regulations. Nothing in this approval supersedes approvals given under other regulatory programs.

Compliance with Locational Criteria

Managing contaminated soil in areas of the site identified on Figure 2 (revised 8/2/2023, copy attached) of the Request will meet the locational criteria listed under Wis. Admin. Code § NR 718.12(1)(c).

The Request proposed the possibility of some soil reuse with a minimum of 2 feet of separation from the high groundwater level; this approval requires the minimum of 3 feet of separation from the high groundwater level listed in NR 718.12(1)(c).

Characterization of Soil to be Excavated

Data from the investigation of the closed 03-13-000053 case and the open 02-13-580328 case have been used to characterize the soil to be excavated. The Request describes how excavated soils will be managed based on their level of contamination.

Submittal of a Soil Management Plan

A complete soil management plan, as defined by Wis. Admin. Code §§ NR 718.12(2)(b) and (c), was provided to the DNR.

Assessment of Risk Posed by Soil Management

The proposed management of soil at the Proposed Lot 1 and 2 redevelopment is expected to meet the criteria of Wis. Admin. Code §§ NR 726.13(1)(b)1 to 5.

Notice Provided Prior to Commencing Soil Management Activities

Per Wis. Admin. Code § NR 718.12(2), the DNR was provided with written notice at least seven days prior to

